# SEMINOLE COUNTY GOVERNMENT AGENDA MEMORANDUM

**SUBJECT:** Deleon Street Right of Way Vacate

**DEPARTMENT:** Planning and Development **DIVISION:** Development Review

AUTHORIZED BY: <u>Dori DeBord</u> CONTACT: <u>Cynthia Sweet</u> EXT: <u>7443</u>

#### MOTION/RECOMMENDATION:

- 1) Adopt and authorize the Chairman to execute a Resolution to vacate and abandon a portion of the public right-of-way of Deleon Street as shown on the plat of Van Arsdale Osborne Brokerage Company's Addition to Black Hammock, as recorded in Plat Book 1, Page 31, of the Public Records of Seminole County, Florida; further described as located north easterly of S R 434 and south of Florida Avenue, Oviedo, Florida, in Section 3, Township 21S, Range 31E, subject to dedication of a public utility easement, as requested by B & W Growers, Inc., applicant.
- 2) Deny the request to vacate and abandon a portion of the public right-of-way of Deleon Street as shown on the plat of Van Arsdale Osborne Brokerage Company's Addition to Black Hammock, as recorded in Plat Book 1, Page 31, of the Public Records of Seminole County, Florida; further described as located north easterly of S R 434 and south of Florida Avenue, Oviedo, Florida, in Section 3, Township 21S, Range 31E, as requested by B & W Growers, Inc., applicant.
- 3) Continue the public hearing until a time and date certain.

District 2 Michael McLean

Cynthia Sweet, Senior Planner

#### **BACKGROUND:**

The applicant, B & W Growers, Inc., is requesting to vacate and abandon an 11,398 square feet (.26 acres) portion of the public right-of-way of Deleon Street located north easterly of SR 434 and south of Florida Avenue, in Section 3, Township 21 S, Range 31 E; as further shown on the plat of Van Arsdale Osborne Brokerage Company's Addition to Black Hammock, as recorded in Plat Book 1, Page 31, of the Public Records of Seminole County, Florida.

The applicant is requesting to vacate the right of way to incorporate for future development of an office park in conjunction with the adjacent property located immediately to the east of the subject right of way located within the city limits of Oviedo. The existing right of way does not serve any access to any property other than the applicant's property. Located west of the subject right of way is a retention pond for S R 434 owned by Florida Department of Transportation and the property to the east of the right of way is owned by the applicant, B & W Growers, Inc.

Vacation and abandonment of the subject right of way will not cause any properties to be landlocked. It will alleviate confusion for drivers going south on Deleon Street to S R 434. The

applicant has provided letters from the utility companies and has volunteered to dedicate a public utility easement over the area.

Staff has no objections to the vacation and abandonment of Deleon Street right-of-way subject to the applicant providing a public utility easement over the area. This request complies with the requirements and under the authority for vacating a right-of-way of Sections 336.09 and 336.10. Florida Statutes.

#### STAFF RECOMMENDATION:

Staff recommends that the Board adopt and authorize the Chairman to execute a Resolution to vacate and abandon a portion of the public right-of-way of Deleon Street as shown on the plat of Van Arsdale Osborne Brokerage Company's Addition to Black Hammock, as recorded in Plat Book 1, Page 31, of the Public Records of Seminole County, Florida; further described as located north easterly of S R 434 and south of Florida Avenue, Oviedo, Florida, in Section 3, Township 21S, Range 31E, subject to dedication of a public utility easement, as requested by B & W Growers, Inc., applicant.

### **ATTACHMENTS:**

- 1. Resolution
- 2. Sketch of Description
- 3. Public Utility Easement
- 4. Maps and Aerials
- 5. Location Map
- 6. Maps and Aerials

Additionally Reviewed By:

County Attorney Review (Kathleen Furey-Tran)

RESOLUTION NO.: 2008-R-		
THE BOARD OF COUNTY COMMIS 9 <sup>TH</sup> DAY OF <u>DECEMBER</u> A.D., <u>2008</u>		
RESOLUTION TO VACATE AND ABANDON A RIGHT-OF-WAY		
Whereas, a Petition was presented on behalf of		
B & W GROWERS, INC (KYLE SANDERS)		
to the Board of County Commissioners of Seminole County, Florida, requesting the closing, vacating and abandoning of the following described right-of-way, to-wit:		
SEE /	ATTACHED EXHIBIT A	
Subject to dedication of a Public Utility Easement as shown as Exhibit C		
Whereas, after due consideration the Board of County Commissioners of Seminole County, Florida, having determined that the abandonment of the above described right-of-way is to the best interest of the county and the public.		
NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners of Seminole County, Florida, that the above described Right-of-way be, and the same is hereby abandoned, closed and vacated, and that all right in and to the same on behalf of the County and the public be, and the same is hereby disclaimed.		
PASSED AND ADOPTED this 9th day of December A.D., 2008.		
ATTEST:	BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA BY:	
MARYANNE MORSE CLERK OF THE CIRCUIT COURT SEMINOLE COUNTY, FLORIDA	BOB DALLARI CHAIRMAN	

### **DESCRIPTION:**

A PORTION OF DELEON STREET LYING IN SECTION 3, TOWNSHIP 21 SOUTH, RANGE 31 EAST, SEMINOLE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF TRACT C, PRESERVE AT BLACK HAMMOCK REPLAT AS RECORDED IN PLAT BOOK 72, PAGES 73-78 IN THE PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA; THENCE ALONG THE EAST RIGHT OF WAY LINE OF DELEON STREET THE FOLLOWING THREE COURSES AND DISTANCES: SOUTH 00'34'39" WEST, A DISTANCE OF 84.18 FEET; THENCE NORTH 39'20'11" WEST, A DISTANCE OF 31.17 FEET; THENCE SOUTH 00'34'39" WEST, A DISTANCE OF 419.11 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID EAST RIGHT OF WAY LINE SOUTH 00'34'39" WEST, A DISTANCE OF 349.01 FEET TO A POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE WESTERLY HAVING A RADIUS OF 508.22 FEET, A CENTRAL ANGLE OF 13'37'07" AND A CHORD DISTANCE OF 120.52 FEET WHICH BEARS NORTH 18'48'26" WEST; THENCE DEPARTING THE SAID EAST RIGHT OF WAY LINE AND ALONG THE EASTERLY RIGHT OF WAY LINE OF STATE ROAD 434 RUN NORTHERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 120.80 FEET; THENCE DEPARTING SAID EASTERLY RIGHT OF WAY LINE OF STATE ROAD 434 AND ALONG THE WEST RIGHT OF WAY LINE OF DELEON STREET NORTH 00'34'39" EAST, A DISTANCE OF 235.33 FEET; THENCE DEPARTING SAID WEST RIGHT OF WAY LINE SOUTH 89'25'21" EAST, A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 11,398 SQUARE FEET, MORE OR LESS.

In accordance with CH-61G17-6 of the Florida Administrative Code, this Description and Sketch of Description bears the notation:

THIS IS NOT A SURVEY,

SHEET 1 OF 2 SEE SHEET 2 OF 2 FOR SKETCH

BEARINGS SHOWN HEREON ARE BASED ON THE EAST RIGHT OF WAY LINE OF DELEON STREET AS BEING S00'34'39"W, PER PLAT BOOK 72, PAGES 73-78.

#### SKETCH OF DESCRIPTION

VACATION OF A PORTION OF DELEON STREET

SEMINOLE COUNTY, FLORIDA SECTION 3-21-31

DATE: 12/13/07 REVISED: 06/24/08 CUENT SCALE: N/A COMMENTS APPROVED BY: DMD JOB NO. 7110702 DRAWN BY: UB

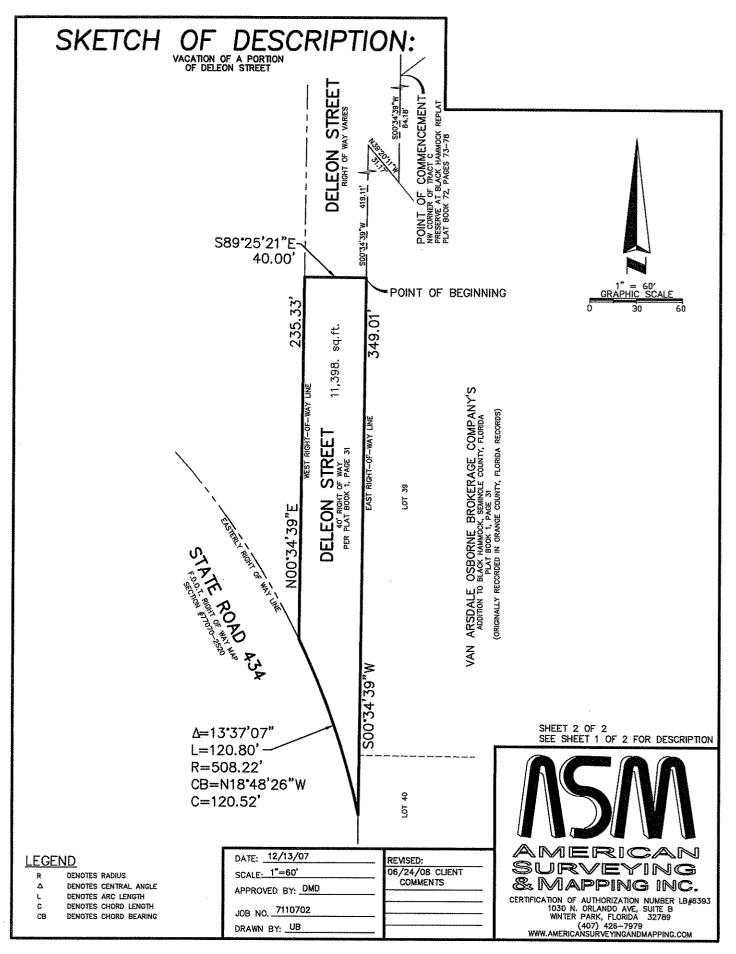


CERTIFICATION OF AUTHORIZATION NUMBER LB#5393 1030 N. ORLANDO AVE, SUITE B WINTER PARK, FLORIDA 32789 (407) 426-7979 WWW,AMERICANSURVEYINGANDMAPPING.COM

THE SURVEYOR HAS NOT ABSTRACTED THE LAND SHOWN HEREON FOR EASEMENTS, RIGHT OF WAY, RESTRICTIONS OF RECORD WHICH MAY AFFECT THE TITLE OR USE OF THE LAND 2. NO IMPROVEMENTS HAVE BEEN LOCATED.

3. NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENISTS SUPPLYOR AND MADDEE LICENSED SURVEYOR AND MAPPER.
4. THIS DOCUMENT CONSISTS OF 2 SHEETS, NOT FULL OR COMPLETE WITHOUT ALL

wand h DAVID M. DEFILIPE DATE: 1 me PSM\_#5038 DATE:



THIS INSTRUMENT PREPARED BY AND PLEASE RETURN TO:

M. Rebecca Furman, Esquire Lowndes, Drosdick, Doster, Kantor & Reed, P.A. 215 No. Eola Drive Post Office Box 2809 Orlando, Florida 32802-2809 Tel: (407) 843-4600

## PUBLIC UTILITY EASEMENT

THIS PUBLIC UTILITY EASEMENT (hereinafter referred to as the "Easement") is given this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_, 2008, by B&W QUALITY GROWERS, INC., a Florida corporation, whose address is 17825 79th Street, Fellsmere, Florida 32948, ("Grantor") to SEMINOLE COUNTY, a political subdivision of the State of Florida whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, and CITY OF OVIEDO, a municipal corporation, whose address is 400 Alexandria Boulevard, Oviedo, Florida 32765 (collectively, "Grantees").

#### WITNESSETH:

WHEREAS, Grantor is the record owner of fee simple title to that certain parcel of real property located in Seminole County, Florida, more particularly described on <a href="Exhibit "A" attached hereto (hereinafter referred to as the "Property"); and</a>

WHEREAS, Grantor desires to grant and convey unto Grantees a non-exclusive public utility easement over, under, upon, across and through the Property for the construction, installation, operation, inspection, maintenance, repair and replacement by Grantees, or their employees, agents or designees, of public utility lines, mains, pipes, pumps, valves, wires, cables, stormwater facilities and similar appurtenances (hereinafter referred to as the "Utilities"). Grantor hereby also grants and conveys unto Grantees reasonable access over and through the Property to maintain stormwater ponds, drainage apertures, and related portions of the drainage system; and

WHEREAS, Grantees agree to accept such Easement on the terms set forth herein below.

NOW, THEREFORE, in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantees hereby agree as follows:

- 1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference.
- 2. Grant of Easement by Grantor. Grantor does hereby create, grant, convey, and declare to exist a perpetual, non-exclusive Easement over, under, upon, across and through the Property for the purpose of construction, installation, operation, inspection, maintenance, repair

and replacement of the Utilities. Grantor also grants and conveys unto Grantees reasonable ingress and egress over and through the Property for the purpose of maintenance of stormwater ponds, drainage apertures, and other related portions of the drainage system.

- 3. <u>Incidental Rights</u>. The Easement hereby created and granted includes the creation of all incidental rights reasonably necessary for the use and enjoyment of the Property for its intended purposes, including, specifically, the right of entry for purposes of construction, installation, operation, inspection, maintenance, repair and replacement of any Utilities located within the Property.
- 4. <u>Construction and Maintenance</u>. Grantees shall each bear their own entire cost and expense of any construction, installation, operation, inspection, maintenance, repair or replacement related to their individual entity's Utilities performed within the Property. Grantees shall also, at Grantees' cost and expense, restore the Property to the condition which existed prior to any such construction, installation, operation, inspection, maintenance, repair or replacement activities, including but not limited to, revegetation, resodding, repaving, or removal of debris or dirt caused by or resulting from such activities with regard to each Grantee's work on their own Utilities.
- 5. Use. Use of the Property and entry upon the Property will at all times conform to and comply with the terms of this Easement and all applicable governmental regulations now in existence or hereafter created. Grantor hereby reserves and retains unto itself, its successors and assigns, the right to use the Property for the express purpose of driveways, sidewalks, parking, and landscaping. Grantor further reserves and retains unto itself, its successors and assigns, the right to use the Property for any purposes which do not interfere with the purposes for which the Easement is granted. Grantor's rights to make surface improvements to the Property shall not interfere with the location, excavation, operation, or maintenance of Grantees' utilities or facilities installed therein. Grantor, its successors, and assigns agree not to build, construct or create, or permit others to build, construct, or create any buildings or other structures on the Property which may interfere with the location, excavation, operation, or maintenance of the Utilities. Grantees may install temporary fencing or barricades in the Easement area when deemed necessary or convenient to Grantees for construction, operation, upgrade, replacement, repair, or maintenance activities. However, such temporary fencing or barricades installed by Grantees shall not limit ingress and egress to the Easement area on the eastern side of the Property.
- 6. <u>Duration</u>. The Easement hereby granted and conveyed over, under, upon, across, and through the Property shall be perpetual in duration. This entire Easement touches or concerns the Property, and shall run with the land, shall be a burden and binding upon the Grantor and the Grantor's assigns and successors in interest.
- 7. <u>Warranty of Title</u>. Grantor hereby warrants that: (i) Grantor owns the fee simple title to the Property, (ii) Grantor has good right and lawful authority to convey the Easement granted herein, and (iii) the Property is not encumbered by any mortgages or other matters which would prohibit its use for the purposes contemplated herein.

- 8. Indemnity. The Grantor shall indemnify and hold harmless Grantees from and against all claims, demands, disputes, damages, costs, expenses (to include attorneys' fees, whether or not litigation is necessary) incurred in enforcing or ensuring compliance with the terms and conditions of this Easement, and/or expenditures incurred by Grantees as a result, directly or indirectly, of the use or development of the property described above or of the use of the Easement area by Grantees or by third parties. Subject to the provisions of Section 768.28, Florida Statutes, each Grantee will indemnify and hold harmless the Grantor from and against all claims, liabilities, judgments or damages arising from the negligent acts or omissions of the individual Grantee. Nothing herein is intended nor shall it be construed to be a waiver of sovereign immunity by each individual Grantee nor shall this document be construed as consent by each individual Grantee to be sued by third parties in any matter arising out of this grant of easement and agreement.
- 9. <u>Governing Law</u>. The Easement shall be governed by and construed in accordance with the laws of the State of Florida.
- 10. <u>Recording</u>. The Grantor agrees to pay the cost of recording this document in the Public Records of Seminole County, Florida.
- 11. <u>Interpretation</u>. This Easement shall be liberally construed to ensure that the purposes to be accomplished by the Grantees are facilitated.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK SIGNATURES APPEAR ON FOLLOWING PAGES

IN WITNESS WHEREOF, Grantor and Grantees have caused this Public Utility Easement to be executed in manner and form sufficient to bind them as of the date and year first above written.

**B&W QUALITY GROWERS, INC., a** 

Florida corporation

Signed, sealed and delivered

in the presence of:

	By: Oxha Sand
Print Name: Rebecca Fulman	Kyle A. Sanders (authorized agent)
Susan Lestag	,
Print Name: SUSAN L. HARAS	"GRANTOR"
·	(CORPORATE SEAL)
STATE OF FLORIDA	
COUNTY OF Orange	_
The foregoing instrument was acknowled	dged before me on this 14th day of Cotolean.
2008 by Kyle A. Sanders, on behalf of B&	W QUALITY GROWERS, INC., a Florida
corporation. He is personally known to me	
identification and did not take an oath.	
•	
MARY REBECCA FURNAN	
Comm# D00607287	Notary Public
Expires 12/5/2010	Print Name
Porida Notary Assn., Inc.	Commission Number:
	My Commission Expires:
	T in an annual contract the contract that contra

[SIGNATURE BLOCKS CONTINUE ON FOLLOWING PAGES]

## WITNESS: PLANNING & DEVELOPMENT DEPARTMENT DEVELOPMENT REVIEW DIVISION SEMINOLE COUNTY, FLORIDA By: Laurence Poliner, P.E. Development Review Manager Date: Within the authority delegated by the County Manager pursuant to Seminole County Administrative Code Section 3.25. For the use and reliance of Seminole County only. Approved as to form and legal sufficiency. Seminole County Attorney's Office STATE OF FLORIDA · )SS. COUNTY OF SEMINOLE ) The foregoing instrument was acknowledged before me on this day of 2008 by \_\_\_\_\_\_, who is personally known to me or has as identification. produced \_\_\_\_\_ WITNESS my hand and official seal in the County and State last aforesaid this \_\_\_\_ day of \_\_\_\_\_, 2008. Notary Public Print Name Notary Public in and for the County and State Aforementioned Commission Number: My Commission Expires:

ACCEPTANCE BY SEMINOLE COUNTY:

[SIGNATURE BLOCKS CONTINUE ON FOLLOWING PAGE]

# ACCEPTANCE BY CITY OF OVIEDO: CITY OF OVIEDO, FLORIDA WITNESS: Richard Gestrich City Manager Approved as to form and legal/sufficiency. City of Oviedo's Attorney's Office STATE OF FLORIDA )SS. CITY OF OVIEDO ) The foregoing instrument was acknowledged before me on this day of day of 2008 by Richard Bastran Bastran Bastran who is personally known to me or has produced as identification. produced \_\_\_ WITNESS my hand and official seal in the County and State last aforesaid this day of Quoust 2008. **Notary Public** E. SUE ANDREWS E. SHE ANDREWS MY COMMISSION # DD 390278 EXPIRES: January 26, 2009 Bonded Thru Notary Public Underwriters **Print Name**

Notary Public in and for the County and

State Aforementioned Commission Number:

My Commission Expires:

# EXHIBIT "A" (1 of 2)

#### **DESCRIPTION:**

A PORTION OF DELEON STREET LYING IN SECTION 3, TOWNSHIP 21 SOUTH, RANGE 31 EAST, SEMINOLE COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF TRACT C, PRESERVE AT BLACK HAMMOCK REPLAT AS RECORDED IN PLAT BOOK 72, PAGES 73-78 IN THE PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA; THENCE ALONG THE EAST RIGHT OF WAY LINE OF DELEON STREET THE FOLLOWING THREE COURSES AND DISTANCES: SOUTH 00'34'39" WEST, A DISTANCE OF 84.18 FEET; THENCE NORTH 39'20'11" WEST, A DISTANCE OF 31.17 FEET; THENCE SOUTH 00'34'39" WEST, A DISTANCE OF 419.11 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID EAST RIGHT OF WAY LINE SOUTH 00'34'39" WEST, A DISTANCE OF 349.01 FEET TO A POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE WESTERLY HAVING A RADIUS OF 508.22 FEET, A CENTRAL ANGLE OF 13'37'07" AND A CHORD DISTANCE OF 120.52 FEET WHICH BEARS NORTH 18'48'26" WEST; THENCE DEPARTING THE SAID EAST RIGHT OF WAY LINE AND ALONG THE EASTERLY RIGHT OF WAY LINE OF STATE ROAD 434 RUN NORTHERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 120.80 FEET; THENCE DEPARTING SAID EASTERLY RIGHT OF WAY LINE OF STATE ROAD 434 AND ALONG THE WEST RIGHT OF WAY LINE OF DELEON STREET NORTH 00'34'39" EAST, A DISTANCE OF 235.33 FEET; THENCE DEPARTING SAID WEST RIGHT OF WAY LINE SOUTH 89'25'21" EAST, A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 11,398 SQUARE FEET, MORE OR LESS.

In accordance with CH-61G17-6 of the Florida Administrative Code, this Description and Sketch of Description bears the notation:

THIS IS NOT A SURVEY.

SHEET 1 OF 2 SEE SHEET 2 OF 2 FOR SKETCH

BEARINGS SHOWN HEREON ARE BASED ON THE EAST RIGHT OF WAY LINE OF DELEON STREET AS BEING S00'34'39"W, PER PLAT BOOK 72, PAGES 73-78.

## SKETCH OF DESCRIPTION

VACATION OF A PORTION OF DELEON STREET

 SEMINOLE COUNTY, FLORIDA
 SECTION 3-21-31

 DATE:
 12/13/07
 REVISED:

 SCALE:
 N/A
 06/24/08 CLIENT

 COMMENTS
 COMMENTS

JOB NO. 7110702

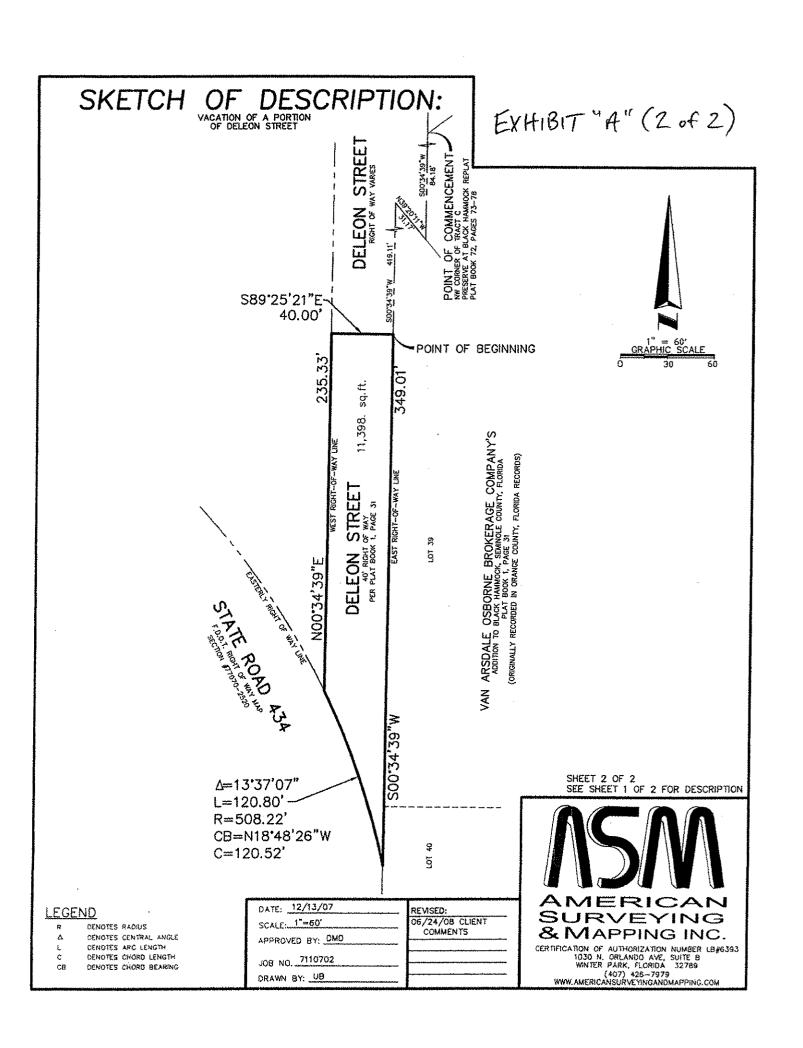
DRAWN BY: UB

NSM
AMERICAN
SURVEYING
& MAPPING INC.

CERTIFICATION OF AUTHORIZATION NUMBER LB#6393 1030 N, ORLANDO AVE, SUITE B WINTER PARK, FLORIDA 32789

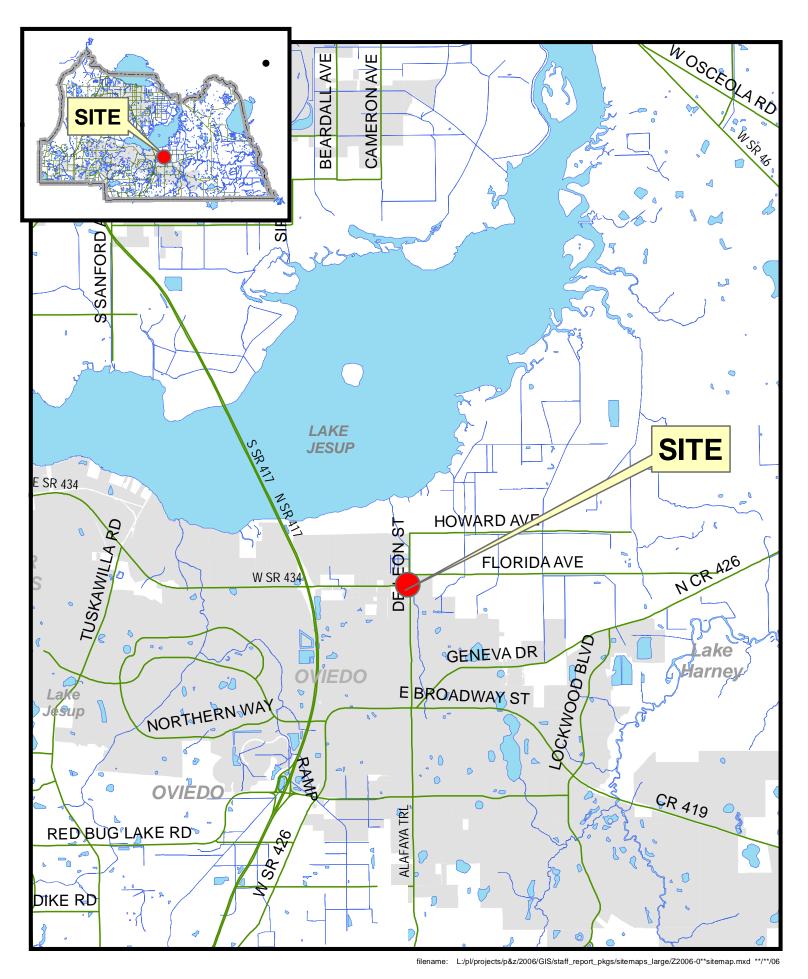
(407) 426-7979 WWW.AMERICANSURVEYINGANDMAPPING.COM 1. THE SURVEYOR HAS NOT ABSTRACTED THE LAND SHOWN HEREON FOR EASEMENTS, RIGHT OF WAY, RESTRICTIONS OF RECORD WHICH MAY AFFECT THE TITLE OR USE OF THE LAND 2. NO IMPROVEMENTS HAVE BEEN LOCATED. 3. NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER. 4. THIS DOCUMENT COMPLETE WITHOUT ALL SHEETS, NOT FULL OR COMPLETE WITHOUT ALL SHEETS.

DAVID M. DEFILIPPE PSM #5038
DATE: 100 PSM #5038





Deleon Street Right-of-Way Vacate



Deleon Street Right-of-Way Vacate

**EXHIBIT D** 

